

(2002) 05 NCDRC CK 0067

NATIONAL CONSUMER DISPUTES REDRESSAL COMMISSION

Case No: None

DIRECTOR GENERAL
(INVESTIGATION AND
REGISTRATION)-/

APPELLANT

Vs

INDIA HABITAT
CENTRE

RESPONDENT

Date of Decision: May 20, 2002

Citation: 2002 2 CPJ 45

Hon'ble Judges: R.K.Anand , R.L.Sudhir J.

Final Decision: Application disposed of

Judgement

1. THE Director General (Investigation and Registration) has made an application under Section 10(a)(iii) read with Section 36B(c) of the MRTP Act, 1969 (the Act for brief) charging the respondent, the India Habitat Centre with adoption of and indulgence in unfair and restrictive trade practices and stating therein, that Shri U.K. Choudhary, who is a practising Advocate and the past President of the Institute of Company Secretaries of India, had applied for admission as a member of the India Habitat Centre and also paid Rs. 500/- alongwith the application form, but was not enrolled as a member and was also not in-formed whether his application was under consideration or it had been rejected.

2. SIMILARLY, a complaint has also been made by Shri Sunil Gulati with an identical grievance. It has been stated by him in his complaint petition that he is a law graduate, a chartered accountant and was nominated to the Council of the Institute of Costs and Works Accountants of India (1995-98) and the Institute of Chartered Accountants of India (1992-95) by the Central Government and even though he fulfills the criteria for

membership, and he applied for membership of the India Habitat Centre, on an application form costing Rs. 100/- and also paid Rs. 500/- alongwith his application, he has not been granted membership and no reason has been assigned by the respondent for not enrolling him as a member.

As the DG's application as well as the complaint petition of Shri Sunil Gulati arise from the same cause of action, they are being taken up together for consideration. At this stage, the point for consideration before us is whether a case of unfair and restrictive trade practices has been made out and whether a Notice of Enquiry may be issued to the respondent.

We have heard the learned Advocate, Mr. U.K. Choudhary, on behalf of the applicant/complainant, Mr. Sunil Gulati in UTPE 74/2001 and Mr. R.D. Makheeja, Advocate for the DG in RTPE No 178/2000 as well as Mr. A.N. Haksar, Senior Advocate for the respondent in both the above noted cases. It is not denied or disputed that the respondent has been considering applications for enrolment of new members. It has been brought to our attention that according to its membership rules, the respondent grants membership to institution as well as individuals and for individuals, there are different classes of membership which is granted on payment of prescribed fees and subscriptions. Rule 3 is relevant as it envisages enrolment of Individual Members and reads as under : Individual Membership The Council may admit any person, associated with or interested in habitat related activities and other areas like the arts, culture, journalism or other areas of public life in any one of the following classes of membership, on payment of prescribed fees and subscriptions.

(a) Founder Members Persons who have devoted their time and effort to the setting up of IHC before formal commission of the Centre, will be admitted as Founder Member. Provided that admission under this class of membership will be totally closed after formal commission of the Centre. These individuals will pay an entrance fee of Rs. 2,500/- only and will be exempt from payment of any annual subscription. (b) Life Members Persons of high attainment in any area of public life may be invited by the governing Council to become Life Members of IHC. The entrance fee payable by Life Members will be Rs. 35,000/-. No annual subscription will be payable by them. (c) Ordinary Members Individuals with professional, academic and cultural interests may be admitted as Ordinary Members in accordance with rules and procedures laid down in this regard, on payment of entrance fee of Rs. 30,000/-. The annual subscription will be Rs. 3,500/- per year. The grievance of both Mr. U.K. Choudhary highlighted in the DG's application as well as that of Mr. Sunil Gulati is that they are persons of high attainments and have professional, academic and cultural interests and are, therefore, eligible for membership and yet they have been denied the membership.

3. THE contention of the respondent, on the other hand, is that the respondent is not carrying on any trade or providing any service and, therefore, the present complaint is not maintainable. Reliance has also been placed on two judgments AIR 1971 Supreme Court 966 and 1996 ALL. L.J. 145. We have perused both these judgments which pertain to violation of the fundamental rights under Article 19 of the Constitution of India whereas the present complaint petitions before us allege adoption of and indulgence in unfair and restrictive trade practices within the meaning of the relevant provisions of the Act. At this stage, we have only to record a finding whether a prima facie case of unfair and restrictive trade practices is made out or not. Keeping in view the professional qualifications and attainments of Mr. U.K. Choudhary and Mr. Sunil Gulati, and the rules governing membership of the India Habitat Centre, it appears to us that, prima facie, a case of unfair and restrictive trade practices is made out and, accordingly, a Notice of Enquiry is ordered to be issued in both the proceedings making it returnable on 20th August, 2002. THE respondent in both the cases, is directed to file its reply within 8 weeks with a copy to the DG and the applicant/complainant respectively. THE cases are adjourned to 20th August, 2002 for settlement of issues and/or for directions. A copy of this order be placed on each of the files. Application disposed of.